

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Case No. 2:13-cv-01324-JAD

MONTANA DEPARTMENT OF REVENUE,
Appellant,

Appeal from the Bankruptcy Court for
the District of Nevada

v.

Bankr. No. 11-15010-BAM;
In re Timothy L. Blixseth;
Involuntary Chapter 7

TIMOTHY L. BLIXSETH,
Appellee,

APPELLANT'S EXCERPTS OF RECORD

Rodney M. Jean
NV Bar # 1395
rjean@lionelsawyer.com
Lionel Sawyer & Collins
300 S. 4th St., Suite #1700
Las Vegas, NV 89101
(702) 383-8830
(702) 383-8845 (fax)

Lynn Hamilton Butler
TX Bar #03527350
lynn.butler@huschblackwell.com
Husch Blackwell LLP
111 Congress Avenue, Suite #1400
Austin, TX 78701
(512) 472-5456
(512) 479-1101 (fax)
Admitted *Pro Hac Vice*

Keith A. Jones
MT Bar #6518
kjones@mt.gov
Special Assistant Attorney General
Montana Dept. of Revenue, Legal Services Office
125 North Roberts Street / P.O. Box 7701
Helena, MT 59604-7701
(406) 444-5884
Admitted *Pro Hac Vice*

Attorneys for Appellant Montana Department of Revenue

Table of Contents

MER Volume	MER Tab	MER Pages	Bankr. Ct. Docket No.	Description
				<i>Relevant Bankruptcy Court Orders</i>
1	1.	MER00001- MER00017	528	Order Granting Motion to Dismiss Involuntary Case
1	2.	MER00018- MER00038	512 (including exhibits)	Omnibus Ruling on Evidentiary Objections
				<i>Involuntary Petition (and Withdrawals and Joinder)</i>
1	3.	MER00039- MER00042	1	Chapter 7 Involuntary Petition dated April 5, 2011 (Exhibit BX marked at Hearing on Motion to Dismiss: Involuntary Petition)
1	4.	MER00043- MER00044	20	Idaho State Tax Commission's Withdrawal of Participation
1	5.	MER00045- MER00048	26	California Franchise Tax Board's Withdrawal of Participation
1	6.	MER00049- MER00058	359	Joinder in Involuntary Petition by Yellowstone Club Liquidating Trust
				<i>Pre-Hearing Briefing</i>
1	7.	MER00059- MER00079	309	Timothy L. Blixseth's Amended Motion to Dismiss Case and Memorandum of Points and Authorities in Support Thereof
1	8.	MER00080- MER00116	437	Montana Department of Revenue's Opposition to Mr. Blixseth's Amended Motion to Dismiss
1	9.	MER00117- MER00124	438	Errata to Petitioning Creditor Montana Department of Revenue's Opposition to Mr. Blixseth's Amended Motion to Dismiss
1	10.	MER00125- MER00141	470	Timothy L. Blixseth's Reply to Montana Department of Revenue's Opposition to Amended Motion to Dismiss
				<i>Hearing Transcripts</i>
1	11.	MER00141- MER00232	496	Transcript of Hearing on Motion to Dismiss held on 6/13/2013, A.M.

MER Volume	MER Tab	MER Pages	Bankr. Ct. Docket No.	Description
2	12.	MER00233- MER00282	499	These pages are intentionally blank. This document is not a full and accurate transcript of the afternoon hearing on the Motion to Dismiss held June 13, 2013. See Volume 8, Tab 70 for the full transcript.
2	13.	MER00283- MER00407	497	Transcript of Hearing on Motion to Dismiss held on 06/14/2013 A.M.
3	14.	MER00408- MER00533	498	Transcript of Hearing on Motion to Dismiss held on 06/14/2013 P.M.
				<i>Post-Hearing Briefing and Selected Filings</i>
3	15.	MER00534- MER00568	511	Yellowstone Club Liquidating Trust's Post-Trial Memorandum in Support of the Involuntary Petition Under Section 303 of the Bankruptcy Code
3	16.	MER00569- MER00626	515	Timothy L. Blixseth's Post-Trial Closing Brief in Support of Amended Motion to Dismiss
4	17.	MER00627- MER00684	516	Petitioning Creditor Montana Department of Revenue's Closing Arguments in the Evidentiary Hearing on Mr. Blixseth's Amended Motion to Dismiss
4	18.	MER00685	529	Order of Reassignment of the Bankruptcy Case from Judge Markell to Judge Thurman
4	19.	MER00686- MER00707	541	Montana Department of Revenue's Notice of Appeal *This Notice of Appeal was also filed as Docket No. 1 in the District Court of Nevada
				<i>Hearing Exhibits re. California Claim</i>
4	20.	MER00708- MER00776	N/A	Exhibit AA marked at Hearing on Motion to Dismiss: California Tax Return (2007)
4	21.	MER00777	N/A	Exhibit AB marked at Hearing on Motion to Dismiss: California Notice of State Tax Lien (April 22, 2009)
4	22.	MER00778- MER00783	N/A	Exhibit AC marked at Hearing on Motion to Dismiss: Email exchange (re. Nunc Pro Tunc) dated April 18, 2011

MER Volume	MER Tab	MER Pages	Bankr. Ct. Docket No.	Description
4	23.	MER00784- MER00820	N/A	Exhibit AG marked at Hearing on Motion to Dismiss: CFTB Certified Documents; Notices and Orders
4	24.	MER00821- MER00824	N/A	Exhibit AH marked at Hearing on Motion to Dismiss: Settlement Agreement
				<i>Hearing Exhibits re. Idaho Claim</i>
5	25.	MER00825- MER00883	N/A	Exhibit AJ marked at Hearing on Motion to Dismiss: Idaho Tax Return (2005)
5	26.	MER00884- MER00928	N/A	Exhibit AK marked at Hearing on Motion to Dismiss: Idaho Tax Return (2007)
5	27.	MER00929- MER00979	N/A	Exhibit AL marked at Hearing on Motion to Dismiss: Idaho Tax Return (2008)
5	28.	MER00980- MER00981	N/A	Exhibit AM marked at Hearing on Motion to Dismiss : Idaho Notice of Deficiency Determination (January 12, 2009)
5	29.	MER00982- MER00983	N/A	Exhibit AN marked at Hearing on Motion to Dismiss : Idaho Notice of Deficiency Determination (January 7, 2010)
5	30.	MER00984- MER00988	N/A	Exhibit 42 marked at Hearing on Motion to Dismiss: Idaho Notice of Deficiency Determination (December 2, 2010)
5	31.	MER00989- MER00990	N/A	Exhibit 43 marked at Hearing on Motion to Dismiss: Idaho Notice of Deficiency Determination (March 1, 2011)
5	32.	MER00991	N/A	Exhibit AO marked at Hearing on Motion to Dismiss: Idaho Notice and Demand (February 4, 2009)
5	33.	MER00992- MER00993	N/A	Exhibit AP marked at Hearing on Motion to Dismiss : Idaho Notice and Demand (March 24, 2011)
5	34.	MER00994	N/A	Exhibit AQ marked at Hearing on Motion to Dismiss: Idaho Notice and Demand (March 24, 2010)
5	35.	MER00995	N/A	Exhibit AR marked at Hearing on Motion to Dismiss: Idaho Notice and Demand (March 30, 2011)

MER Volume	MER Tab	MER Pages	Bankr. Ct. Docket No.	Description
5	36.	MER00996- MER00997	N/A	Exhibit 45 marked at Hearing on Motion to Dismiss: Idaho State Tax Commission Notice and Demand (March 30, 2011)
5	37.	MER00998- MER00999	N/A	Exhibit AS marked at Hearing on Motion to Dismiss: Idaho Notice of Tax Lien (T404958)
5	38.	MER01000- MER01001	N/A	Exhibit AT marked at Hearing on Motion to Dismiss: Idaho Notice of Tax Lien (T412169)
5	39.	MER01002- MER01003	N/A	Exhibit AU marked at Hearing on Motion to Dismiss: Idaho Notice of Tax Lien (T459882)
5	40.	MER01004	N/A	Exhibit AV marked at Hearing on Motion to Dismiss: Idaho Notice of Levy (April 24, 2009)
5	41.	MER01005- MER01006	N/A	Exhibit AW marked at Hearing on Motion to Dismiss: Idaho Notice of Levy (January 11, 2010)
5	42.	MER01007- MER01008	N/A	Exhibit AX marked at Hearing on Motion to Dismiss: Idaho Notice of Levy (January 15, 2010)
5	43.	MER01009- MER01010	N/A	Exhibit AY marked at Hearing on Motion to Dismiss: Idaho Notice of Levy (June 2, 2010)
5	44.	MER01011- MER01022	N/A	Exhibit AZ marked at Hearing on Motion to Dismiss: Idaho Complaint for Money Judgment for Unpaid Taxes
5	45.	MER01023- MER01024	N/A	Exhibit BA marked at Hearing on Motion to Dismiss: Idaho Default Judgment
5	46.	MER01025- MER01029	N/A	Exhibit BB marked at Hearing on Motion to Dismiss: E-mail re Summary of Idaho Settlement Agreement
5	47.	MER01030- MER01031	N/A	Exhibit BC marked at Hearing on Motion to Dismiss: Settlement Agreement dated April 19, 2011 between Idaho and Mr. Blixseth
				<i>Hearing Exhibits re. Montana Claim</i>
6	48.	MER01032- MER01101	N/A	Exhibit BD marked at Hearing on Motion to Dismiss: MT Tax Return for 2004 for Timothy and Edra Blixseth

MER Volume	MER Tab	MER Pages	Bankr. Ct. Docket No.	Description
6	49.	MER01102	N/A	Exhibit BE marked at Hearing on Motion to Dismiss: 2004 Montana-CLT4S form, Schedule 1, for Blixseth Group, Inc.
6	50.	MER01103- MER01130	N/A	Exhibit BF marked at Hearing on Motion to Dismiss: EPA Consent Decree dated December 29, 2004
6	51.	MER01131- MER01142	N/A	Exhibit BG marked at Hearing on Motion to Dismiss: MT Audit Assessment Letter dated July 27, 2009
6	52.	MER01143- MER01146	N/A	Exhibit BH marked at Hearing on Motion to Dismiss: MT Letter dated January 7, 2011
6	53.	MER01147- MER01149	N/A	Exhibit BI marked at Hearing on Motion to Dismiss: MT Letter from MDOR to Timothy Blixseth dated March 3, 2010
6	54.	MER01150- MER01152	N/A	Exhibit BK marked at Hearing on Motion to Dismiss: Montana Department of Revenue letter to Madison County Clerk of the District Court, filing date 3-15-2010 and Warrant for Distrain
6	55.	MER01153- MER01154	N/A	Exhibit BL marked at Hearing on Motion to Dismiss: Montana Department of Revenue letter to Gallatin County Clerk of the District Court, filing date 4-6-2010
6	56.	MER01155- MER01157	N/A	Exhibit BM marked at Hearing on Motion to Dismiss: Stipulation dated January 14, 2011
6	57.	MER01158- MER01200	N/A	Exhibit BO marked at Hearing on Motion to Dismiss: Complaint before Montana STAB dated February 10, 2011
6	58.	MER01201- MER01229	N/A	Exhibit BP marked at Hearing on Motion to Dismiss: BGI 2004 Federal Return Form 1120S
6	59.	MER01230- MER01235	N/A	Exhibit BQ marked at Hearing on Motion to Dismiss: Notice of Referral to Office of Dispute Resolution Exhibit BT-12
7	60.	MER01236- MER01344	N/A	Exhibit BR marked at Hearing on Motion to Dismiss: Yellowstone Development, LLC 2004 Federal Partnership Return Form 1065

MER Volume	MER Tab	MER Pages	Bankr. Ct. Docket No.	Description
7	61.	MER01345- MER01358	N/A	Exhibit BS marked at Hearing on Motion to Dismiss: Yellowstone Development, LLC 2004 Montana Partnership Return Form PR-1
7	62.	MER01359- MER01395	N/A	Exhibit BT marked at Hearing on Motion to Dismiss: Taxpayer Response to MDOR's First Combined Discovery Requests
7	63.	MER01396- MER01402	N/A	Exhibit CM marked at Hearing on Motion to Dismiss: Blixseth's Responses to MDOR's First Discovery (April 2, 2013)
7	64.	MER01403- MER01438	N/A	Exhibit CT marked at Hearing on Motion to Dismiss: Blixseth creditor invoices/statements bills
7	65.	MER01439- MER01444	75	Exhibit DO marked at Hearing on Motion to Dismiss: Declaration of Spencer Marks dated May 4, 2011
7	66.	MER01445- MER01448	N/A	Exhibit DR marked at Hearing on Motion to Dismiss: Declaration of Kim Davis dated May 28, 2013
7	67.	MER01449- MER01462	N/A	Exhibit DS marked at Hearing on Motion to Dismiss: Declaration of Spencer Marks dated May 28, 2013
7	68.	MER01463- MER01474	N/A	Exhibit DT marked at Hearing on Motion to Dismiss: Declaration of Peter Donnelly dated May 28, 2013
7	69.	MER01475- MER01477	N/A	Exhibit DU marked at Hearing on Motion to Dismiss: Declaration of Lee Keller dated May 28, 2013
8	70.	MER01478- MER01659	Replaces 499	Transcript of Hearing on Motion to Dismiss held on 06/13/2013, P.M.
9	71.	MER01660- MER01817	N/A	Docket Entries of U.S. Bankruptcy Court for the District of Nevada, No. 11-15010

CERTIFICATE OF SERVICE

This will certify that on the 21st day of August, 2014, a true and correct copy of the foregoing pleading was served via the Court's CM/ECF notification system to parties subscribing to such system, and via electronic mail on the parties listed below.

Tim L. Blixseth
1605 73rd Ave., NE
Medina, WA 98039-02330
Email: timblisseth@aol.com

/s/ Lynn Hamilton Butler
Lynn Hamilton Butler